

Appl. No. 10/606,924
Response AF dated Feb. 2, 2006
In Reply to Office Action Made Final of Dec. 2, 2005

REMARKS

Applicants would like to gratefully acknowledge the Examiner's indication that claim 18 has been allowed.

In the Office Action Made Final, the Examiner maintained the rejection of claims 1-17. Claims 1-4, 6, 9-11 and 13-17 were rejected under 35 U.S.C. § 102(e) and claims 5, 7, 8 and 12 were rejected under 35 U.S.C. § 103(a).

The arguments and rebuttal evidence provided by Applicants in the Response of September 6, 2005 are hereby incorporated by reference herein in their entirety. The Examiner is invited to review those arguments and rebuttal evidence at this time in reconsidering the rejections that were maintained in the Office Action Made Final.

At this time, Applicants would like to address the issues clarified by the Examiner in the Office Action Made Final.

In the Office Action Made Final, the Examiner cites M.P.E.P. § 2106 which states that "[o]ffice personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure." M.P.E.P. § 2106 at page 2100-9 (Rev. 3, August 2005). The Examiner then states "[g]iving the broadest reasonable interpretation in light of the supporting disclosure, in this case, the combiner (314 in Fig.2) is part of the S-T Encoder (32 in Fig.1) receiving plurality of parallel channel-coded symbol streams (k systematic bits, q1 redundancy bits and q2 redundancy bits)."

In other words, instead of giving the claims their broadest reasonable interpretation in light of Applicants' disclosure (e.g., the specification of Applicants' patent application) during examination as suggested by M.P.E.P. § 2106, the Examiner is instead attempting to give the broadest interpretation of the cited document (i.e., the Seshadri patent). It is possible that the Examiner may have misunderstood the phrase "supporting disclosure" as set forth in M.P.E.P. § 2106. Supporting disclosure is not the cited document (i.e., the Seshadri patent), but Applicants' disclosure (e.g., the specification of Applicants' patent application). See, e.g., M.P.E.P. § 2111 at page 2100-46 ("[d]uring patent examination, the pending claims must be "given *>their< broadest reasonable interpretation consistent with the specification").

Under such a standard, to facilitate the anticipation rejection, the Examiner alleges that,

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according to the Seshadri patent, combiner 314 is part of S-T encoder 32. Applicants respectfully submit that this is an improper interpretation in view of the Seshadri patent.

M.P.E.P. § 2106 states that, during examination, "[o]ffice personnel must always remember to use the perspective of one of ordinary skill in the art". M.P.E.P. § 2106 at page 2100-8.

From the perspective of one of ordinary skill in the art, what is a turbo-trellis coded modulation (TCM) encoder and a space-time (S-T) encoder as used in the Examiner's interpretation of the Seshadri patent? During the examination, the only evidence before the Examiner with respect to the anticipation rejection as to what one of ordinary skill in the art would consider a TCM encoder or an S-T encoder is the Seshadri patent.

The Seshadri patent clearly distinguishes between the TCM encoder 31 (called a TCM Mapper 31 in FIG. 1) and the S-T Encoder 32.

According to the only evidence (i.e., the Seshadri patent), before the Examiner in the anticipation rejection, of the perspective of one of ordinary skill in the art, the combiner 314 is part of the TCM encoder 31.

According to the only evidence (i.e., the Seshadri patent), before the Examiner, of the perspective of one of ordinary skill in the art, the TCM encoder 31 outputs (via its combiner 314) a combined, single string of bits to the S-T encoder 32. See, e.g., col. 2, lines 44-67 and FIGS. 1 and 2 of the Seshadri patent.

The Seshadri patent directly and specifically contradicts the Examiner's interpretation of the Seshadri patent. Accordingly, the perspective of one of ordinary skill in the art directly and specifically contradicts the Examiner's interpretation of the Seshadri patent.

Applicants respectfully submit that the Examiner should not ignore the detailed description of the Seshadri patent because the Seshadri patent is the only evidence of one of ordinary skill in the art before the Examiner in the anticipation rejection and the Seshadri patent specifically and unambiguously articulates that the combiner 314 is part of the TCM encoder 31 and that a combined, single string of bits are sent from the TCM encoder 31 to the S-T encoder 32. Thus, the Examiner's interpretation of the description of the Seshadri patent should not stand.

In view of the above arguments and rebuttal evidence in support of the remarks made in

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the Response of September 6, 2005, it is believed that the Seshadri patent does not anticipate claims 1-4, 6, 9-11 and 13-17.

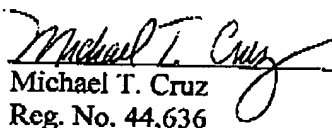
In view of the above arguments and rebuttal evidence in support of the remarks made in the Response of September 6, 2005, it is believed that the Seshadri patent in combination with other cited documents does not render obvious the subject matter as set forth in claims 5, 7, 8 and 12.

In view of at least the foregoing, it is respectfully submitted that the pending claims 1-18 are in condition for allowance. If anything remains in order to place the present application in condition for allowance, the Examiner is kindly invited to contact the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge additional fees or credit overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Dated: February 2, 2006

Respectfully submitted,


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